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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,877	02/12/2002	Douglas Allard	11533.0012CNUS06	3959

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,877

Applicant(s)

ALLARD, DOUGLAS

Examiner

Alexandra K Pechhold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 23-27 is/are allowed.
- 6) ☒ Claim(s) 7-9, 11, 13, 15-22 and 28 is/are rejected.
- 7) ☒ Claim(s) 10, 12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. **Claims 7-9, 11, 13, 15-21, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by McDermott (US 6,045,691).**

Regarding claims 7 and 28, McDermott discloses a catch basin filtration system comprising a filter body, seen as troughs (4), dimensioned to fit within an inlet and obstructing at least a portion of the inlet, and one or more fluid displaceable adsorbent containers with the filter body, seen as sock (2) and bag (3) in Fig. 2. The bag (3) or sock (2) inherently can become displaced as the troughs (4) fill with fluid.

Regarding claim 8, McDermott discloses an absorbent pouch removably connected to the interior of the filter body, seen as sock (2), which McDermott says slips into and storm sewer, and can be replaced whenever needed (Col 6, line 3 and lines 19-21).

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Regarding claim 9, McDermott discloses the use of absorbent material in col 6, lines 7-9.

Regarding claim 11, a high fluid blow bypass route is inherent in McDermott's storm water opening, since water can just flow outside the perimeter of the apparatus (1).

Regarding claim 13, McDermott discloses one or more filter body support brackets seen as lips (5) on the troughs (4) shown in Figs. 4 and 6.

Regarding claim 15, the sock (2) of McDermott will inherently collect debris at the bottom of the troughs (4) by the way the socks (2) are positioned in the bottom of the troughs (4).

Regarding claim 16, McDermott discloses retaining runoff in a catch basin filtration system shown in Fig. 1, comprising a filter body, seen as troughs (4), dimensioned to fit within an inlet and obstructing at least a portion of the inlet, and exposing the runoff to one or more fluid displaceable absorbent containers, seen as sock (2) and bag (3), within the troughs (4) as shown in Fig. 2.

Regarding claim 17, the sock (2) of McDermott is not rigidly fastened, and therefore has the capability of floating.

Regarding claim 18, a high fluid blow bypass route is inherent in McDermott's storm water opening, since water can just flow outside the perimeter of the apparatus (1).

Regarding claim 19, McDermott discloses an absorbent pouch removably connected to the interior of the filter body, seen as sock (2), which McDermott says slips into and storm sewer, and can be replaced whenever needed (Col 6, line 3 and lines 19-21).

Regarding claim 20, since the bag (3) of McDermott is at the bottom of the system, the debris and sediment collects there as seen in Fig. 1.

Regarding claim 21, the sock (2) and bag (3) of McDermott attach to the troughs (4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over McDermott (US 6,045,691).** The bag (3) of McDermott attaches via holes (6) (Col 5, lines 39-41), though Fig. 2 fails to illustrate exactly how the connection between the sock and holes operates, since some sort of further fastener through the holes appears to be required. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the attachment of the bag of McDermott in the holes to utilize clips, snaps, loops or VELCRO™, since these are commonly used fastening means, which can be readily combined with the holes to fasten the bag to the troughs.

Allowable Subject Matter

5. Claims 1-6 and 23-27 are allowed.

6. Claims 10, 12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 8/4/03 requesting reconsideration have been fully considered but they are not persuasive.

Applicant argues the rejection of independent claims 7, 16, and 28, which recite "... a filter body dimensioned to fit within an inlet and forming a trough obstructing at least a portion of said inlet." In rejecting the claims, the Examiner viewed the filter body as troughs (4) in McDermott, and the one or more fluid displaceable adsorbent containers with the filter body as sock (2) and bag (3) in Fig. 2 of McDermott. The refutes this rejection, arguing that the troughs (4) of McDermott are impermeable to water, and therefore cannot be viewed as a filter body as described and claimed in the present invention.

The Examiner again maintains the rejection, again referring to support therefore in Merriam-Webster's Collegiate Dictionary, 10th Ed., which defines a filter as "an apparatus containing a filter medium" in one definition, and "something that has the effect of a filter" in another definition. In the broadest interpretation of "filter body", the troughs (4) of McDermott meet the definition. Clearly the troughs (4) meet the definition of "containing a filter medium", seen as sock (2) which is connected to bag (3) as illustrated in Fig. 2, and also meet the definition of "having the effect of a filter", since water is diverted around the troughs and particulates may settle and collect in the troughs. Even though the troughs are indeed impermeable, by diverting water around and over them, they have a filtering capacity. Even if application does not concede, the troughs (4) still are "containing a filter medium", which is sock (2) connected to bag (3).

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Applicant also refutes the Examiner's rejection of claim 22, which recites that "at least one of said one or more fluid displaceable adsorbent containers attaches to the interior of said filter body via one or more attaching means selected from the group consisting of clips, snaps, loops, and VELCRO or any similar hook and loop fastener." The Examiner noted that McDermott discloses that the bag (3) of McDermott attaches via holes (6) (Col 5, lines 39-41). By simply looking at Fig. 2, one sees the holes (6) and sock (2) and bag (3). There does not seem to be any means shown of exactly *how* the sock (2) is fastened to the holes (6), since the sock (2) and bag (3) cannot be held against the holes (6) without another means of attachment. Clearly, some sort of clip, snap, loop, or hook and loop fastener would easily engage both the sock and hole to hold the bag in place.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

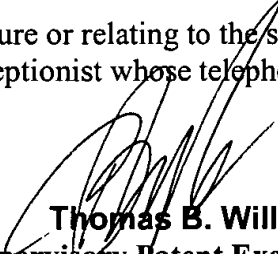
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

9/9/03